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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,337

02/27/2004

David A. Sedacca

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SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

HENEGHAN, MATTHEW E

ART UNIT

PAPER NUMBER

2139

NOTIFICATION DATE

DELIVERY MODE

06/25/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

Office Action Summary	Application No. 10/789,337	Applicant(s) SEDACCA, DAVID A.	
	Examiner Matthew Heneghan	Art Unit 2139	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/11/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-20 have been examined.

Information Disclosure Statement

2. The following Information Disclosure Statement in the instant application has been fully considered:

IDS filed 11 August 2005.

Specification

3. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

4. Claims 12 and 13 are objected to because of the following informalities: each claim recites a device key set that includes one or more protocols. Applicant's specification only suggests that the device key sets may be used with protocols, rather

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than comprising them. It is being presumed that these claims are meant to recite the use of protocols, as per claims 2 and 3. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2, 3, 12, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each claim either recites the use of protocols for high-width digital content protection or digital transmission content protection. Since it is unclear exactly what protocols would be recognized in the art as being for these specific purposes, the claims are indefinite. Since the use of a protocol is inherent in any transmission, the claims are being treated as standing or falling with base claims 1 and 11.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 6, 10-13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,937,067 to Thatcher et al.

Thatcher discloses a retransmission arrangement using secure hardware and inherently using memory at a cable head-end operator (see column 7, lines 1-26) that decrypts transmissions from a national head-end using a private key (from a public/private pair) related to its serial number to get a device key set (shown in figure 5). Transmissions to the receiver are decrypted by the cable head-end and then re-encrypted for transmission to the receiver using encryption seeds provided by the national head-end in encrypted ECM (see figure 8 and column 8, lines 19-48), which uses its own processor (and its own prestored device key set (see column 6, lines 18-24) to decrypt and display the transmission.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 5, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,937,067 to Thatcher et al.

Regarding claims 4 and 14, Thatcher does not specify the type of display interface to be used at the receiver. It would be obvious to try any standard type of display interface, such as the DVI standard.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to try using a display interface using the DVI standard.

Regarding claims 5 and 15, Thatcher does not specify the physical layer protocol to be used between the local cable provider. Thatcher does not specify any minimum distance for the connection. It would be therefore obvious to try any standard physical layer protocol capable of carrying the information, such as IEEE-1394.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to try using a connection using the IEEE-1394 standard.

8. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,937,067 to Thatcher et al. in view of U.S. Patent No. 6,157,719 to Wasilewski et al.

Thatcher does not disclose the algorithm to be used for the device key set.

Wasilewski discloses the use of DES and 3DES algorithms in the encryption of traffic going through a head end (see column 9, lines 1-10 and 33-38).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the invention of Thatcher by using DES or 3DES, as per Wasilewski's analogous disclosure.

9. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,937,067 to Thatcher et al. in view of U.S. Patent No. 6,223,285 to Komuro et al.

Thatcher does not disclose the sending of unprotected streams to the receiver.

Komuro discloses the use of multiple transmission modes, including a mode in which the transmission is not encrypted (see abstract). A receiver sensing the unencrypted stream would implicitly show it without decrypting.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Thatcher by allowing for the use of an unencrypted mode, as per Komuro's analogous teachings.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Heneghan, whose telephone number is (571) 272-3834. The examiner can normally be reached on Monday-Friday from 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached at (571) 272-4063.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-3800

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Matthew Heneghan/

Primary Patent Examiner, USPTO AU 2139

June 25, 2008